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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)

Implementation of Section 255 of the)
Telecommunications Act of 1996)

Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment)
By Persons with Disabilities)

WT Docket No. 96-198

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS OF

Washington State Association of the Deaf

I. Introduction

The Washington State Association of the Deaf submits these
reply comments to the Federal Communication Commission (FCC) Notice
of Inquiry (NOI) regarding access to telecommunications services,
telecommunications equipment, and customer premises equipment
(CPE) by persons with disabilities, WT Docket No. 96-198 (released
September 19, 1996). We also wish to express our support for the

WSAD Comments to the FCC in the matter of
Implementation of Section 255 of the
Telecommunication Act of 1996

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1 comments and reply comments submitted by the National Association
2 of the Deaf and the Consumer Action Network in this proceeding. We
3 applaud the FCC for its commitment to telecommunications access for
4 all Americans and thank the FCC for the opportunity to submit these
5 comments.

6
7 II. The FCC Should Adopt Rules to Implement Section 255.
8

9 The FCC has requested guidance on the means by which it should
10 enforce Section 255 requirements for telecommunications
11 accessibility. Specifically, the FCC asks whether it should
12 promulgate rules, issue voluntary policy guidelines, or enforce
13 Section 255 on a case by case basis.
14

15 Telecommunications products and services remain largely
16 inaccessible to individuals with hearing disabilities such as
17 analog and digital wireless services. Many types of analog
18 wireless phones are not physically compatible at all to fit on many
19 makes of stationary and portable telecommunication devices for the
20 deaf (TTY). The speaker and microphone parts of the analog
21 wireless phones do not line up nor fit physically with the acoustic
22 cups of TTY devices. The TTY acoustic cups are standardized to
23 accommodate all kinds of handsets of standardized stationary
24 telephones. All kinds of digital wireless phones do not work with
25

1 any TTY device at all. The mere presence and proximity of these
2 digital wireless phones next to and on a TTY renders the TTY
3 inoperable.

4
5 The failure of the telecommunications industry to provide
6 access to the above products and services demonstrates the great
7 need for the FCC to issue regulations on Section 255. It is
8 critical for the FCC to provide clear guidance, through mandatory
9 rules, for all parties - consumers, equipment manufacturers, and
10 service providers - on the nature and extent of the accessibility
11 requirements. A number of parties commenting on the FCC NOI feared
12 that rules would necessary be rigid, and stifle technological
13 innovation. But rules do not need to be so detailed that they are
14 inflexible. Rather, they should be flexible enough to allow for
15 ongoing developments in technology, competition within the
16 industry, and changing consumer demands.

17
18 Rules are needed to ensure that products are designed with
19 access in mind. By incorporating concepts of universal design,
20 compliance with Section 255 will be facilitated, and companies will
21 not need to incur the burdens and expenses of retrofitting their
22 products and services at some later date. Rules will also create
23 consistency in application of and compliance with the law. In
24 contrast, implementation of Section 255 through complaints only

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1 will result in inconsistent and conflicting adherence to the law.
2 In addition, a system which depends upon complaints for the
3 enforcement of Section 255 will place an unfair burden on consumers
4 with disabilities, a burden which consumers can ill afford to bear.
5

6 III. The FCC Should Require Documentation of a Company Disability
7 Impact Analysis.
8

9 In order to achieve effective compliance with Section 255,
10 telecommunications companies should be required to undertake some
11 type of accessibility assessment, or disability impact analysis,
12 for their products and services. In conducting such assessments,
13 companies should be required to consider access issues at all
14 phases of the design, development, and marketing of their products
15 and services. To fulfill this function, companies should be
16 required to obtain input from consumers with disabilities who are
17 knowledgeable about disability needs and the technologies or
18 solutions needed to meet those needs. If companies provide market
19 research for and testing of their offerings, they should be
20 required to include consumers with disabilities in such research
21 and testing, to ensure that functional limitations are considered
22 in the earliest stages of design and development. Finally,
23 companies should ensure that their products are not only
24 accessible, but are usable as well. Customer support services and
25

1 communications with the public (through brochures and
2 advertisements) must be accessible through alternate formats such
3 as captioned video, TTYs, Internet/e-mail, diskette, and large
4 print.

5
6 When digital wireless telephones were being developed and
7 marketed, not one manufacturer thought of consulting with the deaf
8 community to learn and discover if digital wireless telephones
9 would be used by the deaf and be compatible with stationary and
10 portable TTY devices. Today, the manufacturers' failure actually
11 is a discrimination against the deaf community by excluding the
12 deaf community from the utility and the use of digital wireless
13 services.

14
15 Companies should be required to document their efforts to
16 achieve access, and should be required to either file such
17 documentation with the FCC or make it readily available to
18 consumers upon request. Where a company determines that
19 accessibility is not readily achievable, such documentation should
20 contain evidence that the company has fully researched and explored
21 accessibility solutions and should explain why such solutions are
22 not readily achievable. The ability to review such documentation
23 would enable consumers to have a better feel for whether a company
24 made a good faith effort to achieve access. This would both result

1 in a greater number of products and services being accessible and
2 likely have the positive effect of reducing complaints once the
3 product or service is placed on the market.

4
5 IV. Telecommunications Companies Should Evaluate the Accessibility
6 of their Offerings Periodically.

7
8 The rapid pace with which technology is changing means a
9 particular access feature that is not be readily achievable at one
10 point in time may become readily achievable at some point in the
11 future. For this reason, it is critical for the FCC to require
12 telecommunications companies to continually review the extent to
13 which their products and services can be made accessible. Where
14 access solutions do become readily achievable, companies should
15 have an ongoing obligation to incorporate such solutions into their
16 products and services, either at the time those offerings are
17 redesigned, or at a reasonable time after the readily achievable
18 determination is made.

19
20 V. The FCC Should Not Exempt any Category of Telecommunications
21 Companies from the Requirements of Section 255.

22
23 Section 255 is explicit in its requirement that
24 telecommunications products and services must be accessible, unless

1 the companies providing those products and services can show that
2 access is not readily achievable. This standard does not permit
3 the wholesale exemption of small businesses, foreign manufacturers,
4 or any other category of businesses.

5
6 Many deaf people use telephones, wireless telephones, fax
7 machines, email as communications tools to interact and to
8 integrate with hearing people in all manners of medical, legal,
9 engineering, agricultural, maritime and social matters, business
10 matters and recreational matters.

11
12 Attorneys who are deaf uses wireless phones to communicate
13 with their deaf clients from courthouses, and use fax machines to
14 communicate with other attorneys and clients who are hearing.
15 Social workers who are deaf use wireless phones and fax machines to
16 communicate with medical doctors, hospitals, community and legal
17 services. Professional fishermen who are deaf use wireless phones
18 to sell to and negotiate prices with fish markets before they come
19 in from the open ocean. Working parents who are deaf use wireless
20 phones to keep in touch with and to communicate with their
21 children. Many travelers and commuters who are deaf use wireless
22 phones as emergency tools to keep in touch and to communicate with
23 their loved ones.

1 Only where small (or large) manufacturers can demonstrate,
2 through a disability impact analysis, that they have been unable
3 to incorporate a readily achievable accessibility or compatibility
4 solution despite best efforts to do so, can they be relieved of
5 their responsibilities under the law, to the extent that the
6 inability to comply exists. With respect to manufacturers in
7 other nations, such manufacturers are already obligated to comply
8 with existing technical, operational, and other accessibility
9 mandates issued by the FCC. Section 255 mandates should be no
10 different.

13 VI. Conclusion

15 Barriers to telecommunications products and services have long
16 prevented the full integration of deaf and hard of hearing
17 individuals into the mainstream of society. The price for these
18 barriers has been high, in terms of lost opportunities in
19 employment, education, recreation, and other spheres of life.
20 Section 255 of the Telecommunications Act of 1996 offers a unique
21 and unprecedented opportunity to reverse this trend by
22 incorporating access features into products and services at their
23 earliest stages of design and development. We urge the FCC to
24 adopt rules that achieve this objective, and stand ready to assist

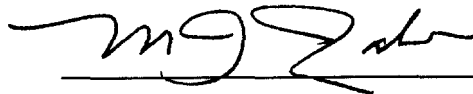
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1 in the realization of this long-awaited goal.

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3
4 Respectfully submitted,

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9 Michael J. Izak, President

10 Washington State

11 Association of the Deaf

12 November 25, 1996
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